

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

15-cr-379 (PKC)

-against-

ORDER

JUAN ORLANDO HERNANDEZ and JUAN
CARLOS BONILLA VALLADARES,

Defendants.

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CASTEL, U.S.D.J.

The Court has reviewed the government's letter of March 14, 2023, submitted ex parte and under seal (the "Letter") by the United States Attorneys' Office ("USAO"). The Letter seeks an extension of the March 17, 2023 date for filing a request under section 4 of CIPA to May 17, 2023. The deadline for any request under section 4 of CIPA had previously been extended from February 1, 2023, to March 17, 2023. Counsel for defendants have been apprised of the request but not the contents of the Letter. Counsel for Juan Orlando Hernandez has opposed the extension. The application will be granted in part and denied in part.

The USAO opines that filing its motion on May 17 "will allow ample time for the Court's review of the motion and any litigation pursuant to §§ 5 and 6 of CIPA." The executive branch has the capacity to bring on additional staff. Constraints are likely based upon the level of priority placed on the task and internal and budgetary restraints. (There are four Assistant United States Attorneys listed as signatories to the Letter.) In the case of the judicial branch, there can be but one Article III judge assigned to the case. The responsibility for review of summarized, redacted or withheld materials lies in the person of that single judge.

The USAO advises that it will be in a position to produce to defense counsel by April 1, 2023, 500 summaries or redacted versions of classified materials originating with one or more department(s) or agenc(ies) (“Group 1 Department(s) or Agenc(ies)”). If the USAO has reviewed the classified materials and is in a position to sign off on summaries and redacted versions or determine that no disclosure of any kind ought to be made, then there should be no impediment to it making the “request for . . . authorization in the form of a written statement to be inspected by the court alone” also by April 1, 2023, or shortly thereafter. The Court will only extend the date for the USAO’s request under section 4 for Group 1 Department(s) or Agenc(ies) to April 14, 2023.

With respect to another or other department(s) or agenc(ies) who had not submitted all classified information for USAO review (“Group 2 Department(s) or Agenc(ies)”), the section 4 CIPA request deadline is extended to May 17, 2023, for good cause shown.

Because the USAO has previously advised the Court that it expects litigation under sections 5 and 6 of CIPA is likely, (Jan. 10, 2023 Tr. at 4), in the event the USAO seeks a further extension of the dates set forth above, it should be accompanied by an application to vacate the September 18, 2023 trial date.¹

SO ORDERED.



P. Kevin Castel
United States District Judge

Dated: New York, New York
March 15, 2023

¹ The Court is not without sympathy for the temporal and workload pressure placed upon the individuals within the USAO in complying with CIPA and the schedule of this Court. But the judiciary is not in a position to manage this executive branch problem.